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apply costly conservation needed to be a true steward of our land resource—the Nation's productivity base.

I believe the PIK program taking an additional 82 million crop acres out of production offers an excellent opportunity to show rapid progress on curtailing the erosion problem on this cropland. I urge my colleagues to support enactment of this bill.

By Mr. BAKER (for Mr. GOLDWATER) (for himself, Mr. PRESSLER, and Mr. HOLLINGS):

S. 999. A bill to amend the Communications Act of 1934 to provide for improved international telecommunications, and for other purposes; to the Committee on Commerce, Science, and Transportation.

INTERNATIONAL TELECOMMUNICATIONS ACT OF 1983

Mr. GOLDWATER. Mr. President, I am very pleased to introduce the International Telecommunications Act of 1983. This bill has as its purpose the extension of our procompetitive domestic communications policies to the provision of international telecommunications services.

Mr. President, even though we attempt, through this legislation, to extend procompetitive U.S. policies into the international arena, the bill recognizes that both international services and the facilities by which they are delivered are provided jointly with foreign nations. Hence, the United States cannot unilaterally deregulate the provision of international services and facilities. As such, the bill provides the FCC the authority to deregulate the provision of services in the context of international comity and the joint ownership of international facilities.

The bill also recognizes the essential role of the International Telecommunications Satellite Organization (Intelsat) in the provision of global satellite telecommunications services and the United States' strong commitment to that organization.

With respect to interconnection, if carriers provide both domestic and international services, they must file separate tariffs for each, and cannot unjustly discriminate against any other carrier with respect to interconnection terms and conditions.

Also, the bill states that U.S. policy shall be to promote the unencumbered resale and shared use of facilities.

This measure recognizes that carriers should be granted access to monopoly facilities at rates based on cost. It anticipates that the Federal Communications Commission will develop appropriate procedures to address the issue of cost-based access to monopoly facilities.

The legislation also addresses the appropriate role of the FCC in planning for facilities by which international messages are transmitted.

The bill, in seeking to improve long-standing problems of a lack of coordi-

nated policymaking in international telecommunications, establishes an Office of the Special Representative (and Deputy) for Telecommunications and Information with the rank of Ambassador. It also establishes an international task force for telecommunications, mandating some concerted activities among U.S. entities with responsibility for international telecommunications policymaking. These provisions will take us far in achieving our goals in the international telecommunications arenas.

Mr. President, I ask that the bill, and its summary be printed in the Record.

There being no objection, the bill and summary were ordered to be printed in the Record, as follows:

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*Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That this Act may be cited as the "International Telecommunications Act of 1983".*

FINDINGS

SEC. 2. The Congress hereby finds and declares that—

(1) rapid advances in international telecommunications technologies are making possible increased competition among providers of international telecommunications services;

(2) competition is a more efficient regulator than Government of the provision of diverse international telecommunications services and, as competition continues to develop, deregulation of international telecommunications carriers and services should occur;

(3) it is essential to encourage the entry of new carriers in the offering of international telecommunications services and facilities; and

(4) the Nation's international telecommunications carriers, facilities, and services are vital to meeting the needs of national defense and emergency preparedness and to maintaining the economic competitiveness and technological leadership of the United States.

TITLE I—GENERAL

PURPOSES—FEDERAL COMMUNICATIONS COMMISSION; INTERNATIONAL TELECOMMUNICATIONS

Sec. 101. The Communications Act of 1934, as amended (47 U.S.C. 151), is amended by inserting immediately after title V the following new title:

"TITLE VI—INTERNATIONAL TELECOMMUNICATIONS

"DEFINITIONS

"Sec. 601. For the purposes of this title, unless the context otherwise requires, the term—

"(1) 'foreign or international telecommunications', 'foreign or international telecommunications service' means telecommunications or transmission from or to any place in the United States to or from a foreign country, or between a station in the United States and mobile station located outside the United States;

"(2) 'information service' means the offering of a capability for generating, acquiring, storing, transforming, processing, retrieving, utilizing, or making available information which may be conveyed via telecommunications, except that such service does not include any use of any such capability for the management, control, or operation of an international telecommunications system or

the management of an international telecommunications service;

"(3) 'National Communications System' means a confederation of specified agencies and departments of the Federal Government established to ensure the provision of necessary telecommunications to the Federal Government under all conditions through the linking together of the telecommunications facilities, components, and services of each specified agency;

"(4) 'regulated telecommunications service' or 'regulated service' means any international telecommunications service designated by the Commission pursuant to this Act and which the Commission determines shall be regulated pursuant to this Act, and any international telecommunications service or facilities not subject to effective competition as determined by the Commission pursuant to section 604(b) of this title;

"(5) 'resale' means the reoffering, with or without adding value, by any person for a profit of any international telecommunications service which has been obtained from a carrier;

"(6) 'sharing' or 'shared use' means the collective use of telecommunications services or facilities with each user paying the telecommunications-related costs associated with subscription to and collective use of the telecommunications services or facilities according to its pro rata usage of such services or facilities;

"(7) 'telecommunications' means the transmission, between or among points specified by the user, of information of the user's choosing, without change in the form or content of the information, by means of electromagnetic transmission, with or without benefit of any closed transmission medium, including all instrumentalities, facilities, apparatus, and services (including the collection, storage, forwarding, switching, and delivery of such information) essential to such transmission;

"(8) 'international telecommunications carrier' or 'carrier' means any person, including any government or independent government entity, which offers any international telecommunications service. A person engaged in any nontelecommunications activities, in providing any information service or information software, in producing or marketing equipment, or a person engaged in broadcasting, or in providing any cable service, shall not, insofar as such person is so engaged, be deemed a carrier. The shared use of telecommunications equipment, facilities or services among Government agencies, or the provision of telecommunications equipment facilities or services by any Government agency to any other Government agency, shall not be sufficient to deem such Government agencies to be a carrier;

"(9) 'transmission facilities' or 'telecommunications facilities' means equipment (including wire, cable, microwave, satellite, and fiber optics) which transmit information by electromagnetic means or which directly support such transmission, but does not include customer-premise equipment; and

"(10) 'United States' means the several States and territories, the District of Columbia, and the possessions of the United States.

"STATEMENT OF POLICY

"Sec. 602. (a) It is the policy of the United States to rely wherever and whenever possible on marketplace competition and on the private sector to provide international telecommunications services, and to reduce and eliminate unnecessary regulations and to encourage entry by new carriers into the international telecommunications market-

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the cost of carrying out the changes in cropping or land use conversions and conservation treatments set forth in the agreement for which the Secretary determines that cost sharing is appropriate and in the public interest. The portion of such cost (including labor and maintenance costs) to be shared shall be that part the Secretary determines is necessary and appropriate to effectuate the changes in cropping or land use conversions and the installation and maintenance of the conservation treatment for a normally-expected life of such treatment.

(d) Payments made under this section shall be made in accordance with a formula developed by the Secretary. In developing such formula, the Secretary shall take into consideration (1) the costs of establishing and maintaining the agreed-upon conservation treatments for the normally-expected life of such treatment; (2) the severity of the erosion hazard involved; and (3) other factors the Secretary determines necessary to encourage participation in the program under this Act.

(e) Notwithstanding any other provision of law, payments under this section shall be made in cash or in in-kind commodities in such amounts as agreed upon and specified in the agreement. However, the use of any Commodity Credit Corporation commodity in making payment under this section shall be subject to a finding by the Secretary that payments in kind of such commodity will not displace to any significant degree the usual marketings of such commodity. If the payment is made with in-kind commodities, the payments shall be made by delivery by the Commodity Credit Corporation of the commodity involved to the owner or operator at a warehouse or other similar facility located in the county in which the cropland is located or such other location as agreed to by the Secretary and the owner or operator, by the transfer of negotiable warehouse receipts, or by such other method, including sale of the commodity in commercial markets, determined by the Secretary to be appropriate to enable the owner or operator to receive efficiently and expeditiously possession of the commodity. If Commodity Credit Corporation stocks of the commodity are not readily available to effect full payment in kind to the owner or operator, the Secretary may substitute fully or partially payment in cash for payment in kind.

(f) The Secretary shall provide the owner or operator the option of receiving payments as the agreement items are completed or, where appropriate, the Secretary may provide for payment in advance of the performance of the planned conservation treatment.

(g) The Secretary shall provide adequate safeguards to protect the interests of tenants and sharecroppers, including provision for sharing, on a fair and equitable basis, in payments under the program.

(h) The Secretary shall take steps to ensure that acreage diverted from the production of crops to permanent conservation cover under an agreement are considered as active cropping acres (also known by such titles as cropland acreage base or normal crop acreage) for any Federal commodity program, including, but not limited to, production control and adjustment programs, that uses cropping history in the operation of the program. The diverted acreage shall be considered as part of the base history for as long as the permanent cover established under the agreement is maintained.

(i) The Secretary shall, within 60 days after the enactment of this Act, publish in the Federal Register regulations implementing this Act, including those describing erosion-prone land.

(j) In carrying out the program authorized by this Act, the Secretary may use the funds, facilities, and authorities of the Commodity Credit Corporation.

## ADDITIONAL AUTHORITY

SEC. 4. The authority provided by this Act shall be in addition to and not in place of other authorities available to the Secretary and Commodity Credit Corporation for carrying out soil and water conservation programs.

SPECIAL CROPLAND CONSERVATION PROGRAM—  
STAFF SUMMARY OF THE MAJOR PROVISIONS

1. The land eligible for the program would be restricted to Class IIIe, IVe, VI, VII, or VIII cropland, unless the Secretary determines, upon a demonstration by the owner or operator of other land, that a serious soil erosion problem exists on the land or that the land is an integral part of the erosion-prone cropland.

2. The Secretary would enter into agreements lasting no more than 10 years with the participants of the program. The participant would agree (1) to effectuate a plan for the cropland; (2) to forfeit all rights to further payments or refund to the Secretary all payments if the participant violates the agreement while he has control of the land if the Secretary determines that the violation warrants a refund or termination of the agreement; (3) to forfeit all rights to further payments and to refund all the payments received if the participant transfers his rights and interest in the cropland, unless the transferee agrees to assume all obligations under the agreement; (4) not to adopt practices that would tend to defeat the purposes of the agreement; and (5) to such other provisions as the Secretary determines necessary.

3. The Secretary would agree to provide technical assistance and to share the cost of carrying out the necessary conservation treatments. The portion of the cost to be shared will be that part the Secretary determines to be necessary to effectuate the conservation treatment.

4. Payments would be made according to a formula, developed by the Secretary. The Secretary, in developing the formula, shall take into consideration the costs of establishing and maintaining the conservation treatment and the severity of the erosion hazard involved.

5. Payments would be in cash or in-kind commodities. Before making payment by in-kind commodities, the Secretary would have to determine that making the in-kind payment would not displace to any significant degree the usual marketings of the commodity.

6. The Secretary would be required to make payments as the agreement items are completed, or where appropriate, in advance of the performance of the treatment.

7. The Secretary will be required to safeguard the interests of tenants and sharecroppers.

8. The acreage diverted from production of crops under this program would be considered as active cropping acres for the purposes of any Federal commodity program. The diverted acreage will be considered as part of the base history for as long as the permanent cover is maintained.

Mr. COCHRAN. Mr. President, I am pleased to join my distinguished colleague from Oklahoma in cosponsoring this legislation. It is basically the same payment in kind or conservation PIK concept for sharing the cost of carrying out conservation on cropland acres as was in the bill I introduced in March. My bill was designed to pro-

mote conservation on all cropland acres idled through an acreage reduction program. It authorized a conservation program to work in conjunction with any ongoing PIK and diverted acres program allowing the Secretary of Agriculture to defray part of the cost through use of surplus commodity stocks or cash.

The bill being introduced today is an expansion of this concept. It authorizes the Secretary of Agriculture to direct additional emphasis to conservation of those cropland soils which are most susceptible to wind or water erosion. By targeting on these acres, the program is addressing the cropland acreage with the highest soil loss rates. The erosion prone croplands specified in this bill are approximately 30 percent of the total crop acreage, but account for 52 percent of the total soil loss from cropland.

The Secretary is provided the permanent authority to use cash or commodity to share the cost of applying approved conservation practices on erosion prone croplands. It is intended to complement ongoing conservation programs like the Great Plains conservation program and the agricultural conservation program at a minimum outlay of appropriated funds.

Once the owner or operator of the eligible lands, assisted with technical assistance from USDA, decide what conservation treatment is needed on the cropland, they can enter into a long-term agreement with the Secretary. This will assure all the conservation work is carried out and payment in commodities or cash is available when the work is completed.

Several safeguards are included and I would like to emphasize two which I feel are quite sound. The first one protects the public investment in conservation. A participant shall not carryout any farming or other practice which would tend to defeat the conservation purposes of the agreement he has with the Secretary of Agriculture.

The second safeguard is the protection of the participant's crop acreage base for use in future commodity production control programs. If the participant plants cropland acreage to a permanent conservation cover under the agreement, they would not lose credit for this base. This will help offset the growing resistance many conservation farmers are developing because new commodity programs have not given conservation credit for cropland seeded down through a USDA conservation program. We can not afford this type of disincentive to alienate our farmers who work diligently to be good conservation farmers. The Government's investment in conservation will become much more effective and encourage the retention of the conservation for a much longer period as a result of this safeguard.

This bill, if enacted, will help provide scarce resources that many owners or operators often need to

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place. Marketplace competition will result in technological innovation, operating efficiencies, and availability of a wide variety of telecommunications technologies that are now or may become available in the future, and will promote the equitable and efficient use of such technologies to provide international telecommunications services. Where effective competition does not now exist, it is the policy of the United States to encourage the development of such competition. Whenever the Commission finds it necessary to regulate international telecommunications services or facilities which are not subject to effective competition, such regulation shall be the minimum needed to accomplish the purposes of this Act. It shall be presumed that there are no basic technological, operational, or economic factors which would necessarily preclude the provision of any international telecommunications service under conditions of competition.

"(b) The Congress recognizes that the provision of international telecommunications services, and the planning, construction, and ownership of international telecommunications facilities, are necessarily joint undertakings between United States persons and representatives of numerous sovereign nations. Accordingly, the interests of those sovereign nations are to be considered in the implementation of United States policy.

"(c) It shall be the policy of the United States to promote, including through meetings with foreign telecommunications entities, the deregulation of the resale or shared use of any international telecommunications service.

"(d) It shall be the policy of the United States to promote the interconnection of international telecommunications facilities based upon the cost of providing such facilities.

## "AUTHORITY OF THE COMMISSION

"SEC. 603. (a) The Commission shall exercise only so much of the powers conferred upon it under this Act as is essential to the purposes of this title. The Commission shall revise, reduce, or eliminate any rule or regulation prescribed pursuant to this Act, and exempt any person in whole or in part from the requirements of this Act with respect to any international telecommunications service or any carrier operating in any market or a geographic area as competition develops unless such revision, reduction, or elimination thereof may result in a significant adverse impact upon the national defense and security or emergency preparedness or upon the economic competitiveness and viability of United States suppliers of telecommunications equipment and international telecommunications services relative to competing foreign suppliers and their United States affiliates.

"(b) The Commission shall have continuing authority over the provision of regulated international telecommunications service.

## "CLASSIFICATION OF SERVICES

"SEC. 604. (a) Not later than 30 days after the date of enactment of this title, the Commission shall identify, and cause to be published in the Federal Register, a list of those international telecommunications services which are regulated by the Commission on the date of enactment of this title.

"(b)(1) The Commission may classify or reclassify as a regulated international telecommunications service any international telecommunications services or facilities where it determines after a hearing that—

"(A) such services or facilities are not subject to effective competition;

"(B) Federal regulation of such services is required to accomplish the purposes of this title; and

"(C) the benefits of such regulation outweigh the costs.

"(2) In making such a determination under paragraph (1) the Commission shall consider—

"(A) the number and size of unaffiliated providers of service or facilities;

"(B) the extent to which service or facilities are available from unaffiliated providers in the relevant geographic area or market;

"(C) the ability of such unaffiliated providers to make such service or facilities readily available at comparable rates, terms, and conditions;

"(D) whether the service of facilities are necessary to the Nation during a state of public peril or disaster or other national emergency;

"(E) the extent to which United States carriers are accorded fair access to or interconnection in foreign markets in the provision of international telecommunications service or facilities; and

"(F) other indicators of the extent of competition.

## "TRANSITIONAL PROVISIONS OF CERTAIN SERVICES

"SEC. 605. (a) Each international telecommunications service which is being provided under tariff on the date of the enactment of this title shall continue to be provided under tariff for a period of not less than 1 year from such date.

"(b) Not later than 1 year after the date of enactment of this title, the Commission shall determine, after an expedited hearing in which any interested party may join, which of the international telecommunications services described in subsection 604(a) must continue to be regulated pursuant to subsection 604(b)(1).

"(c)(1) Any international telecommunications service for which the Commission fails to make the determination specified in section 604(b) shall be deregulated.

"(2) Upon its own motion, or upon petition, the Commission shall revise at least once every 2 years any determination that any international telecommunications service is to be regulated pursuant to section 604(b). Upon making a determination that a service is subject to effective competition, the Commission shall deregulate such service.

## "INTERCONNECTION

"SEC. 606. (a) In addition to that interconnection required under section 609(a), every international telecommunications carrier—

"(1) shall, if a reasonable request is made, establish interconnection of its regulated service or facilities—

"(A) with any telecommunications carrier;

"(B) with any telecommunications facility or private or Government telecommunications system; and

"(C) with any customer premise equipment which is owned or leased by a customer of such carrier;

"(2) may not discriminate in an unreasonable or unjust manner with respect to the charges, terms, and conditions for interconnection of its regulated service or facilities; and

"(3) such charges, terms or conditions for interconnection shall be based on cost of such services or facilities provided for such interconnection.

"(b) For purposes of subsection (a)(1)(A), the Commission shall require that—

"(1) if any telecommunications carrier engages both in the offering for hire of international telecommunications services and in the offering for hire of domestic communi-

cations services, then such telecommunications carrier shall be treated as a separate domestic telecommunications carrier and a separate international telecommunications carrier for purposes of administering interconnection requirements;

"(2) in any case where such separate domestic telecommunications carrier furnishes interconnection to such separate international telecommunications carrier, any interconnection which such separate domestic telecommunications carrier furnishes to other international telecommunications carriers shall be (A) equal in type and quality; and (B) made available at the same rates and upon the same terms and conditions; and

"(3) in any case in which such separate international telecommunications carrier furnishes interconnection to such separate domestic telecommunications carrier, any interconnection which such separate international telecommunications carrier furnishes to other domestic telecommunications carriers shall be (A) equal in type and quality; and (B) made available at the same rates and upon the same terms and conditions.

"(c) Any person who violates any provision of this section or any rule or order promulgated thereunder shall be liable to the United States for an amount not to exceed \$250,000 in an action commenced by the Attorney General.

## "CARRIER CONTRACTS

"SEC. 607. (a) The Commission shall have authority to vacate or require modification, in whole or in part, any contract, agreement, or arrangement entered into after the date of enactment of this title between or among United States carriers related to any regulated international telecommunications service filed with the Commission under this Act, if the Commission determines that such contract, agreement, or arrangement is not consistent with this Act, or such contract, agreement, or arrangement unjustly or unreasonably discriminates against any carrier.

"(b) The Commission shall have authority to declare any contract, agreement or arrangement, or any portion thereof, or any practice or act required thereby, between United States and foreign carriers related to any regulated international telecommunications service filed with the Commission under this Act, to be unlawful if the Commission determines that such contract, agreement, arrangement, or any portion thereof, or such practice or act violates any provision of this Act.

## "INTERNATIONAL TELECOMMUNICATIONS FACILITIES

"SEC. 608. (a)(1) The Commission may assess United States carriers' proposals for the construction and utilization of international telecommunications facilities.

"(2) In assessing United States carriers' proposals, the Commission shall consult with affected United States carriers, including persons seeking to participate in ownership and operation of international telecommunications facilities, and appropriate Federal agencies.

"(b) The Commission or any Commissioners may meet with representatives of foreign telecommunications entities to exchange information, except that—

"(1) proper notice shall be given to all interested parties prior to any such meeting and such parties shall be given an opportunity to comment on the subjects to be discussed;

"(2) to the maximum extent feasible any meetings with such representatives shall be public, and a report of such proceedings shall be made part of the public record; and

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"(3) any data the Commission obtained during such meetings and used by the Commission must be made available to the public. In any such decision, the Commission must explain the manner in which such data was used.

"(c) It shall not be unlawful for United States carriers jointly to meet together or with foreign telecommunications entities for the purposes of planning or agreeing to international facilities plans developed pursuant to this section: Provided, however, That this subsection shall not exempt any carrier from the provisions of the antitrust laws for any action taken by such carrier which is a violation of such laws when taken by a single carrier.

## "APPLICABILITY OF TITLE

"Sec. 609. The provisions of this title shall be applicable only to international telecommunications services. Except to the extent otherwise provided in this title and by the International Telecommunications Act of 1982, the provisions of this Act which, immediately prior to the date of the enactment of the International Telecommunications Act of 1982, were applicable to international telecommunications services, including facilities used in connection therewith, shall continue to be applicable to such services and facilities."

TITLE II—INTERNATIONAL  
TELECOMMUNICATIONS

## SHORT TITLE

SEC. 201. This title may be cited as the "International Telecommunications and Information Coordination Act of 1982".

## FINDINGS AND PURPOSE

SEC. 202. (a) The Congress finds that—

(1) the United States telecommunications and information industries make an important contribution to international commerce and are vital to the economy, national defense, security, and emergency preparedness of the United States;

(2) although many governments of the world have recognized the strategic importance of their telecommunications and information industries and have developed policies to promote those industries, the United States has no coordinated international telecommunications and information policies;

(3) the authority and responsibility to develop such policies is divided among Federal agencies on a conflicting and often confusing basis; and

(4) the United States must have an effective mechanism for the development of telecommunications and information policies. The mechanism must coordinate within the Federal Government and between the Federal Government and the private sector.

(b) The Congress declares that it is the policy of the United States—

(1) to maintain and promote a viable, strong, and technologically competitive telecommunications industry;

(2) to encourage and assist the competitive provision of telecommunications and information goods and services in international commerce;

(3) to ensure the preservation and enhancement of the principles of the free flow of telecommunications services and information throughout the world;

(4) to ensure the existence of effective non-political international telecommunications organizations and other entities;

(5) to ensure the equitable treatment of United States and foreign enterprises in all international markets of telecommunications and information goods and services; and

(6) to ensure the effective coordination and representation of United States interests in international forums.

OFFICE OF THE SPECIAL REPRESENTATIVE FOR  
TELECOMMUNICATIONS AND INFORMATION

SEC. 203. (a) There is established within the Executive Office of the President the Office of the Special Representative for Telecommunications and Information (hereinafter in this section referred to as the "Office").

(b)(1) The Office shall be headed by the Special Representative for Telecommunications and Information who shall be appointed by the President, by and with the advice and consent of the Senate. Any nomination of the Special Representative for Telecommunications and Information submitted to the Senate for confirmation, and referred to a committee, shall be referred to the Committee on Commerce, Science and Transportation. The Special Representative for Telecommunications and Information shall hold office at the pleasure of the President and shall have the rank of Ambassador.

(2) There shall be in the Office a Deputy Special Representative for Telecommunications and Information who shall be appointed by the President, by and with the advice and consent of the Senate. Any nomination of a Deputy Special Representative submitted to the Senate for confirmation, and referred to a committee, shall be referred to the Committee on Commerce, Science and Transportation. The Deputy Special Representative for Telecommunications and Information shall hold office at the pleasure of the President.

(3) The Special Representative for Telecommunications and Information shall—

(A) be the chief representative of the United States at international telecommunications and information conferences;

(B) advise the President and Congress with respect to international telecommunications and information policies and shall coordinate executive branch development of such policies;

(C) be responsible for making reports to Congress with respect to the matter set forth in subparagraphs (A) and (B);

(D) be chairman of the task force established pursuant to section 204 of this Act; and

(E) be responsible for such other functions as the President may direct.

(4) The Deputy Special Representative for Telecommunications and Information shall have as its principal function the coordination of telecommunications and information policymaking in the executive branch as the Special Representative for Trade Negotiations may direct.

(c) The Special Representative for Telecommunications and Information may, for the purpose of carrying out his functions under this section—

(1) subject to the civil service and classification laws, select, appoint, employ, and fix the compensation of such officers and employees as are necessary and prescribe their authority and duties;

(2) employ experts and consultants in accordance with section 3109 of title 5, United States Code, and compensate individuals so employed for each day (including travel-time) at rates not in excess of the maximum rate of pay for grade GS-18 as provided in section 5332 of title 5, United States Code, and while such experts and consultants are so serving away from their homes or regular place of business, to pay such employees travel expenses and per diem in lieu of subsistence at rates authorized by section 5703 of title 5, United States Code, for persons in Government service employed intermittently;

(3) promulgate such rules and regulations as may be necessary to carry out the functions vested in the Office;

(4) utilize, with their consent, the services, personnel, and facilities of other Federal agencies; and

(5) enter into and perform such contracts, leases, cooperative agreements, or other transactions as may be necessary in the conduct of the work of the Office and on such terms as the Special Representative for Telecommunications and Information may deem appropriate, with any agency or instrumentality of the United States, or with any public or private person, firm, association, corporation, or institution.

(d) The Special Representative for Telecommunications and Information shall, to the extent he deems it necessary for the proper administration and execution of the trade agreements programs of the United States, draw upon the resources of the Department of State, the Department of Commerce, the International Communications Agency, and the United States Trade Representative, and consult with Federal agencies in connection with the performance of his functions.

(e) There are authorized to be appropriated to the Office of Special Representative for Telecommunications and Information such amounts as may be necessary for the purpose of carrying out its functions for fiscal year 1983 and each fiscal year thereafter, any part of which is within the 5-year period beginning on the date of the enactment of this Act.

## ESTABLISHMENT OF THE TASK FORCE

SEC. 204. (a) There is established in the executive branch an International Telecommunications and Information Task Force (hereinafter in this title referred to as the "Task Force"). The Task Force shall be the principal coordinating body for the development of United States telecommunications and information policies.

(b) The membership of the Task Force shall consist of—

(1) the Special Representative for Telecommunications and Information; the Deputy Special Representative for Telecommunications and Information; the Secretary of Commerce, the Secretary of State, the Secretary of Defense, the Attorney General, the United States Trade Representative, the Chairman of the Federal Communications Commission, the Deputy Assistant Secretary of State for Transportation and Telecommunications Affairs, and the Director of the International Communications Agency; and

(2) the members of the Task Force designated in paragraph (1) may appoint a representative to serve in their place. The representative shall be an official of a rank no lower than that of Assistant Secretary or its statutory equivalent. In the case of the Federal Communications Commission, the Chairman may designate another Commissioner and the Director of the International Communications Agency may designate the Deputy Director of that agency. In the event that the Secretary of Commerce designates a representative, it shall be the Assistant Secretary for Telecommunications and Information.

(c) The Chairman of the Task Force shall be the Special Representative for Telecommunications and Information.

(d) Whenever the Task Force considers matters that affect the interests of Federal agencies not represented on the Task Force, the Special Representative may invite the heads of such agencies to designate representatives to participate in the relevant deliberations of the Task Force.

(e) Members of the Task Force shall serve without additional compensation, but shall be reimbursed for actual and necessary ex-

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penses, including travel expenses, incurred by them in carrying out the duties of the Task Force.

(f) The Task Force shall terminate upon the expiration of the 36-month period following the date of the enactment of this title, except that the President may, at any time during the 6-month period preceding the expiration of the term of authority of the Task Force, extend the existence of the Task Force for a period of not more than 3 years. Any extension shall be made by Executive order. If the President chooses not to extend the Task Force, he shall, by Executive order, assign the responsibilities and authorities of the Task Force to one department or agency.

## POWERS OF THE TASK FORCE

SEC. 205. (a) The Task Force shall assist the Special Representative in the development of consistent and comprehensive United States international telecommunications and information policies and shall advise the President with respect to those policies. In order to avoid duplicative and conflicting policies among Federal agencies, and to assure the greatest possible cooperation among such agencies, the Task Force shall—

(1) recommend to the Special Representative procedures for coordinating the policies of all Federal agencies involved in international telecommunications and information; and

(2) review all significant policy determinations of Federal agencies, and all proposed statements of United States policy by such agencies, relating to international telecommunications and information, and approve, disapprove, or modify any such policy, determination, or proposed statement where necessary; and

(3) conduct a comprehensive study of the feasibility and desirability of alternatives to the International Telecommunications Unions (ITU), and assess the alternatives which are reasonably available. The results of such study shall be reported to the Congress within the 180 day period following the date of the enactment of this Act.

The Task Force shall make recommendations to appropriate Federal agencies in accordance with the findings of this review. Those recommendations shall also be provided to the President and the appropriate committees of the Congress.

(b) The provisions of subsection (a)(2) shall not apply to any action or determination of an independent regulatory agency made pursuant to the rulemaking or adjudicatory procedures set forth in section 553, 554, 556, or 557 of title 5, United States Code, or pursuant to comparable statutory rulemaking or adjudicatory procedures.

(c) The Task Force shall make recommendations and reports to the President and the Congress on a regular basis.

## TRANSFER OF FUNCTIONS

SEC. 206. (a) All functions vested in the Secretary of State by section 5-201 of Executive Order 12046 of March 27, 1978, to the extent that they relate to the determination of policies and positions, are transferred to the Office of the Special Representative for Telecommunications and Information.

(b) All functions vested in the Secretary of Commerce by section 2-404 of Executive Order 12046 of March 27, 1978, to the extent that they relate to the determination and coordination of plans and policies, and, to the extent its provisions relate to international telecommunications and information, by section 2-501 of Executive Order 12046 of March 27, 1978, are transferred to the Special Representative for Telecommunications and Information.

(c) All functions vested in the Director of the International Communications Agency by section 6 of Executive Order 12048 of March 27, 1978, to the extent that its provisions relate to responsibility for advising the President, are transferred to the Task Force.

## ADMINISTRATIVE POWERS

SEC. 207. (a) For the purpose of carrying out its functions under this Act, the Task Force may—

(1) utilize those services, personnel, and facilities of the Department of State, the Department of Commerce, the International Communications Agency, and the United States Trade Representative, that are used for international telecommunications and information activities;

(2) utilize, with their consent, the services, personnel, and facilities of any other Federal agency; and

(3) accept voluntary and uncompensated services, notwithstanding the provisions of section 3679(b) of the Revised Statutes (31 U.S.C. 685(b)).

(b) The Secretary of Commerce and the Secretary of State shall designate such employees as are necessary to serve as staff to the Task Force. The Special Representative for Telecommunications and Information shall designate a director for the staff of the Task Force.

## ADVISORY COMMITTEE

SEC. 208. (a) The Task Force shall establish an Advisory Committee on International Telecommunications and Information (hereinafter in this title referred to as the "Committee") to provide overall policy advice to the Task Force with respect to the functions of the Task Force. The Committee shall be composed of not more than 30 individuals and shall include representatives of labor, manufacturers of telecommunications, information, data processing equipment, other affected manufacturers, providers of telecommunications, information, and data processing services, other affected service industries, financial institutions, journalists, broadcasters, consumer interests, the legal profession, users of telecommunications services and equipment, and small business.

(b) The members of the Committee shall designate a Chairman and a Vice Chairman, who shall preside at meetings in the absence of the Chairman.

(c) The Committee shall meet at the call of the Chairman to provide policy advice, technical advice and information, and advice on other factors relevant to the activities of the Task Force. A meeting of the Committee shall be held at least once each calendar quarter.

(d) The Task Force shall, before approving under this Act any statement of new United States policy relating to international telecommunications and information, consult with the Committee for the purpose of obtaining the views of the Committee on the effect of the proposed submission on the social and economic interests of the United States.

(e) The Task Force shall make available to the Committee such staff, information, personnel, and administrative services and assistance as may reasonably be required to carry out the activities of the Committee.

(f) The Task Force shall adopt procedures for consulting with and obtaining information and advice from the Committee on a continuing and timely basis. Such consultation shall include the provision of information to the Committee as to (1) significant issues and developments, and (2) overall objectives and positions of the United States with respect to the development of telecommunications and information policies. The

Task Force shall not be bound by the advice or recommendations of the Committee but the Task Force shall inform the Committee of failures to accept such advice or recommendations. The Task Force shall submit an annual report to the appropriate committees of the Congress on consultations with the Committee, issues involved in such consultations, and the reasons for not accepting any advice or recommendations of the Committee.

## TITLE III—MISCELLANEOUS

## TRANSITION OF COMMISSION AUTHORITY

SEC. 301. All orders, determinations, rules, regulations, permits, contracts, certificates, and privileges, which, pursuant to the provisions of titles II and III of the Communications Act of 1934, as amended—

(1) have been issued, made, granted, or allowed to become effective by the Federal Communications Commission; and

(2) were in effect prior to the enactment of this Act,

shall continue in effect according to their terms until modified, terminated, superseded, set aside, or repealed by the Commission, by any court of competent jurisdiction, or by operation of law.

## INTERNATIONAL TELECOMMUNICATIONS

SEC. 302. The provisions of this Act, and the amendments made thereby, shall apply only to the provision of international telecommunications services or facilities. For the purposes of this section, the term—

(1) "international telecommunications services" shall have the same meaning as that provided in section 601(1) of the Communications Act of 1934, and

(2) "international telecommunications facilities" means those facilities intended for the provision of international telecommunications.

## INTERNATIONAL ECONOMIC COMPETITION

SEC. 303. The Secretary of Commerce is authorized to collect information on the competitiveness of United States suppliers of telecommunications equipment and services, foreign direct investment in the United States telecommunications industry, foreign laws and administrative controls on access of United States persons to foreign markets, the degree of equitable access to foreign markets by United States persons, United States share of global markets, and such other information as the Secretary deems necessary, and shall report any findings to the Congress on a periodic basis.

## COMMUNICATIONS SATELLITE ACT OF 1962

SEC. 304. (a) Section 102(d) of the Communications Satellite Act of 1962 is amended to read as follows:

"(d) It is not the intent of Congress by this Act to preclude the use of the communications satellite system for domestic communication services where consistent with the provisions of this Act nor to preclude the creation of additional domestic and international communications satellite systems, if required to meet unique governmental needs or if otherwise required in the national interest or if such other communications satellite systems will otherwise serve the public interest, convenience and necessity."

(b) Paragraph (8) of subsection (c) of section 201 of the Communications Satellite Act of 1962, as amended (47 U.S.C. 721(c)(8)), is repealed.

(c) Section 301 of the Communications Satellite Act of 1962, as amended (47 U.S.C. 731), is amended by deleting "to the District of Columbia Business Corporation Act" and inserting in lieu thereof "to the laws governing corporations in the jurisdiction within

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the United States in which it is incorporated."

(d) Section 303(a) of the Communications Satellite Act of 1962, as amended (47 U.S.C. 733(a)), is amended to read as follows:

"(a) The corporation shall have a board of directors who shall be elected annually by the stockholders. All board members shall be citizens of the United States, and one board member shall be elected annually by the board to serve as chairman: *Provided, however, That effective 1 year after this Act takes effect no directors incumbent shall be eligible to hold office as members of the board unless elected in accordance with this section. The articles of incorporation of the corporation shall provide for cumulative voting and, in the manner prescribed by the laws governing corporations in the jurisdiction in which the corporation is incorporated, may be amended, altered, changed, or repealed by a vote of the outstanding shares of the voting capital stock of the corporation owned by stockholders who are communications common carriers and by stockholders who are not communications common carriers, voting together, if such vote complies with all other requirements of this chapter and of the articles of incorporation of the corporation with respect to the amendment, alteration, change, or repeal of such articles. The corporation may adopt such bylaws as shall, notwithstanding the provisions of the law of any State or of the District of Columbia, provide for the continued ability of the board to transact business under such circumstances of national emergency as the President of the United States, or the officer designated by him, may determine, after February 18, 1969, would not permit a prompt meeting of a majority of the board to transact business.*"

(e) Section 304(a) of the Communications Satellite Act of 1962, as amended (47 U.S.C. 734(a)), is amended by inserting immediately before "without" the following: "with or".

(f) Section 304(e) of the Communications Satellite Act of 1962, as amended (47 U.S.C. 734(e)), is amended to read as follows:

"(e) Any record holder of the stock of the corporation, without regard to the percentage of stock so held, shall have the right to examine, in person, or by agent or attorney, at any reasonable time or times, for any proper purpose, the corporation's record of shareholders and to make extracts therefrom."

(g) Section 305(b) of the Communications Satellite Act of 1962 is amended to read as follows:

"(b) to provide international services directly to the public. *Provided, however, That the Commission shall have the authority to require that such common carrier services be provided by a fully separate corporate subsidiary of the corporation if the Commission determines such action is required by the public interest, convenience and necessity.*"

(h) Section 305(c) of the Communications Satellite Act of 1962, as amended (47 U.S.C. 735(c)), is amended to read as follows:

"(c) To carry out the foregoing purposes, the corporation shall have the usual powers conferred upon a stock corporation by the laws of the jurisdiction in which it is incorporated."

(i) Section 201(c)(7) of the Communications Satellite Act of 1962 is amended to read:

"(7) grant appropriate authorization for the construction and operation of each satellite terminal station to: the corporation; one or more authorized carriers; the corporation and one or more such carriers jointly; or to persons other than the corporation or

authorized carriers, as will best serve the public interest, convenience and necessity;"

(j) Section 103 of the Communications Satellite Act of 1962 (47 U.S.C. 702) is amended—

(1) by striking "and" at the end of paragraph (9);

(2) by striking the period at the end of paragraph (10) and inserting in lieu thereof "; and"; and

(3) by adding at the end thereof the following:

"(11) the terms 'authorized user' and 'authorized entity' mean a user or entity, other than an authorized carrier, which has been authorized by the Commission to obtain channels of communications in the communications satellite directly from the corporation."

(k) Section 201(c) of the Communications Satellite Act of 1962 (47 U.S.C. 721(c)) is amended—

(1) by striking "and" at the end of paragraph (10);

(2) by striking the period at the end of paragraph (11) and inserting in lieu thereof "; and"; and

(3) by adding at the end thereof the following:

"(12) authorize users and entities other than authorized carriers to acquire channels of communications in the communications satellite system directly from the corporation whenever the Commission finds such acquisition will serve the public interest."

#### EXECUTIVE SUPERVISION OF FOREIGN RELATIONS AND ACTIVITIES

SEC. 305. (a) The President, through the Special Representative for Telecommunications and Information, shall exercise such supervision over, and issue such instructions to, the corporation in connection with its relationships and activities with foreign governments, international entities, and the International Telecommunications Satellite Organization (INTELSAT) as may be necessary to ensure that such relationships and activities are consistent with the national interest and foreign policy of the United States.

(b) The Commission is authorized to issue instructions to the corporation with respect to regulatory matters within the jurisdiction of the Commission. In the event an instruction of the Commission conflicts with an instruction of the President pursuant to subsection (a) of this section, the instructions issued by the President shall prevail.

#### ASSISTANT SECRETARY OF STATE

SEC. 306. (a) There shall be within the Department of State an "Assistant Secretary of State for Telecommunications Affairs". Such Assistant Secretary of State shall be appointed by the President, with the advice and consent of the Senate, and shall serve at the pleasure of the President and shall have the rank of Ambassador. Such Assistant Secretary shall perform such duties as shall be prescribed by the Secretary of State, including the formulation and implementation of policy regarding foreign economic matters in the area of telecommunications, and advising the Secretary of State with respect thereto.

(b) Section 5316 of title 5, United States Code, is amended by adding at the end thereof the following:

"Assistant Secretary of State for Telecommunications Affairs."

#### REDESIGNATION OF TITLE VI OF THE COMMUNICATIONS ACT OF 1934 AND NATIONAL DEFENSE AND EMERGENCY PREPAREDNESS

SEC. 307. The provisions of title VI of the Communications Act of 1934 as such title existed on the date immediately preceding the date of the enactment of this Act are

hereby redesignated as title VII and sections 601 through 606 thereof are redesignated as sections 701 through 706, respectively, sections 607, 608, and 609 thereof are redesignated as sections 708, 709, and 710, respectively, and the following new section is inserted after the newly designated section 706:

#### "NATIONAL DEFENSE AND EMERGENCY PREPAREDNESS

"SEC. 707. (a) The President may establish a plan to ensure the availability of communications services, facilities, and equipment necessary to meet the national defense and emergency preparedness needs of the United States and to ensure the continuity and prompt initiation or restoration of communications essential to national defense or emergency preparedness.

"(b) Pursuant to any plan established under subsection (a), the President may request carriers to engage in meetings for the purpose of assuring the establishment and maintenance of networks of communications services and facilities adequate to maintain the national defense and emergency preparedness of the United States: *Provided, That this subsection shall not exempt any carrier from the provisions of the antitrust laws for any action taken by such carrier which is a violation of such laws when taken by a single carrier.*

"(c) The President shall appoint an advisory council of not to exceed 30 members to examine the structure, policy, and needs of Federal telecommunications management for national security and emergency preparedness to ensure that the United States shall have a technologically advanced and economically viable telecommunications industry for the purposes of the national defense and economic advancement."

#### SUMMARY—THE INTERNATIONAL TELECOMMUNICATIONS DEREGULATION ACT OF 1983

1. Findings: Advances in technology are making possible competition among providers of international telecommunications services; competition is a more efficient regulator than government.

2. Applicability: Act applies to the provision of international telecommunications services—those telecommunications transmissions that originate or terminate outside the United States.

3. Transition Plan: The bill requires the FCC to establish a plan to carry out the provisions of the Act—carrier and service classification; establishment of an accounting system; and action on petitions related to the formation of separate subsidiaries. Time periods are specified in the bill for implementation of these requirements.

4. Degree of Regulation: The FCC is ordered to reduce regulation as competition develops in the provision of services, facilities, or access to or interconnection in foreign markets.

5. Classification: Within 30 days after enactment, the FCC must determine which international telecommunications services are regulated. Thereafter, the FCC may deregulate services as they become subject to effective competition. The Commission will have continuing authority to classify and unclassify the services provided.

6. Resale and Shared-Use: The U.S. should promote the removal of restrictions on the resale (the reoffering with or without adding value, by any person for a profit of any telecommunications service which has been obtained from a carrier) or shared-use (collective use of telecommunications services or facilities with each user paying its pro rata telecommunications-related usage) of international telecommunications services.

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7. Interconnection: Any carrier providing a regulated international telecommunications service is required to interconnect with any carrier, facility, equipment, or private system upon reasonable request and pursuant to non-discriminatory terms and conditions.

8. International Telecommunications Facilities: The Commission may adopt procedures to assess U.S. carriers' proposals for the construction and utilization of international telecommunications facilities.

9. Office of the Special Representative (and Deputy) for Telecommunications and Information: Established in the Executive Branch as the principal coordinating body for international telecommunications and information policymaking.

10. International Telecommunications and Information Task Force: Established in the Executive Branch and chaired by the Special Representative as a coordinating body for the U.S. telecommunications or information policies.

11. Comsat: Comsat is relieved of statutory limitations contained in the Communications Satellite Act of 1962, i.e., Board of Directors, place of incorporation, voting procedures, issuance of stock.

By Mr. TRIBLE (for himself, Mr. LONG, Mr. INOUE, Mr. MATHIAS, Mr. SARBANES, Mr. MATSUNAGA, and Mr. MITCHELL):

**S. 1000.** A bill to promote increased ocean transportation of bulk commodities on the foreign commerce of the United States on U.S.-flag ships, to strengthen the defense industrial base, and for other purposes; to the Committee on Commerce, Science, and Transportation.

#### COMPETITIVE SHIPPING AND SHIPBUILDING ACT OF 1983

Mr. TRIBLE. Mr. President, today the U.S. bulk cargo fleet is on the brink of disaster. Our fleet, which carried 42 percent of our ocean-going commerce 30 years ago, today carries less than 4 percent. In 1970, the U.S. bulk fleet engaged in international commerce totaled 81 vessels; today we have only 40 vessels, and many of these are approaching obsolescence.

The picture in our shipyards is equally bleak. The number of new commercial starts has plummeted from 30 in 1978 to 3 in 1982. No new contracts are expected in 1983. Several of the shipyards which are essential to our defense base are teetering on the edge of bankruptcy.

Our merchant marine and our shipbuilding base are essential to a strong national defense. Without sufficient merchant vessels in our fleet, and without the ability to construct and repair large numbers of these vessels quickly, our ability to resupply our defense efforts in times of conflict will be lacking. The security of our Nation depends on our maritime industries.

History shows us that the Merchant Marine Act of 1936 and the emergency liberty ship program prepared us for the huge shipping losses the Allies suffered at the beginning of World War II. Our national security requires that we take equally bold and innovative steps today to revitalize our merchant marine.

Today, the Senator from Louisiana, Mr. LONG, and I are introducing the Competitive Shipping Act of 1983. Joining us as cosponsors are: Senators INOUE, MATHIAS, SARBANES, MATSUNAGA, and MITCHELL.

This bill represents the innovative approach that today's problems demand. It would require all exporters and importers of bulk commodities in the foreign commerce of the United States to ship 5 percent of their cargoes on U.S.-flag, U.S.-built vessels. This requirement would increase by 1 percent each year until 20 percent of all U.S. bulk cargoes are carried on American ships. The innovative feature of this bill is that it requires American ship operators and shipyards to each reduce their costs by 15 percent in real terms.

These cost reductions would be achievable because passage of this legislation will permit American shipyards to begin "series construction" of several vessels.

Such a stable workload would permit shipyards to dedicate specific facilities, work force and management to a bulk ship construction program. In addition, the one-time front-end costs of design, engineering, and facilities preparation will be spread over the cost of several ships, rather than one as we see today. More than half of total ship construction costs are due to material and equipment; with series construction, significant savings can be accomplished through quantity discounts in this area. Also, a reliable, stable, long-time workload will increase shipyard labor productivity, and prevent costly fluctuations in the work force, as well as create the necessary stability for increased capital improvements in shipyard facilities.

Since today's state-of-the-art ships require a far smaller crew than the vessels now in our fleet, operating costs will be greatly reduced as well. Representatives of maritime labor unions have pledged these reductions in vessel manning scales, as well as other initiatives, to reduce vessel operating costs by at least 15 percent in real terms.

Passage of this bill will result in real economic benefits for the United States. It is projected that this bill will result in the construction of 158 120,000-ton bulk vessels by 1998. This will result in tens of thousands of jobs in America's shipyards and support industries, as well as thousands of jobs on board American ships. These employment opportunities will disproportionately benefit minority workers, those who have felt the brunt of recession the hardest. Approximately 28 percent of the American shipyard work force and 17.5 percent of the shipboard work force are minorities.

I would also point out that many of our trading partners, recognizing the valid commercial and national goals, have provided powerful incentives to bolster their maritime and shipbuilding industries. America must recognize

this world situation and act accordingly before it is too late.

Mr. President, finally I would point out that our bill would require no Government subsidy. In the past our maritime policies have required billions of dollars in construction and operational differential subsidies. There will no longer be a need for these subsidies if this bill passes.

This bill will revitalize our merchant marine, and strengthen our defense shipbuilding base. It will put thousands of Americans back to work. I urge its favorable consideration and ask unanimous consent that the text of S. 1000 and section-by-section analysis be printed in the Record.

There being no objection, the material was ordered to be printed in the Record, as follows:

#### S. 1000

*Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That this Act may be cited as the "Competitive Shipping and Shipbuilding Act of 1983."*

#### FINDINGS, PURPOSES, AND POLICY

Sec. 2. (a) The Congress finds and declares the following:

(1) The United States is totally dependent upon foreign flag bulk shipping services in that United States-flag vessels now carry less than 4 per centum of its bulk import and export cargoes in international trade.

(2) Virtually all bulk imports of the United States are critical to American industrial production or to the maintenance of adequate energy supplies.

(3) Bulk exports of the United States contribute substantially to the United States balance of trade, provide major sources of employment in the United States, and contribute to the food supply and other essential requirements on a worldwide basis.

(4) The United States cannot afford to rely heavily upon foreign sources to provide the transportation services needed to maintain the flow of essential bulk imports and exports if it is to ensure its economic and political independence.

(5) The United States is continuing to lose the major portion of revenues generated by the carriage of its bulk imports and exports in international trade.

(b) It is therefore declared to be the purpose and policy of the Congress in this Act—

(1) to take immediate and positive steps to promote the orderly and rapid growth of the bulk cargo carrying capability of the United States merchant marine in order to transport at least 20 per centum of our bulk imports and exports in United States-flag ships within fifteen years;

(2) to assist and cooperate with the importers and exporters of bulk commodities so that they will be able to ship their goods in United States-flag ships in a commercially practicable manner; and

(3) to encourage the construction in United States shipyards of new, efficient, and environmentally safe bulk cargo carrying merchant vessels.

#### DEFINITIONS

Sec. 3. As used in this Act—

(a) The term "United States-flag ship" means a bulk cargo carrying vessel that meets each of the following conditions:

(A) The vessel was built in the United States;

(B) The vessel is documented under the Vessel Documentation Act (94 Stat. 3453);

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(C) Each member of the crew of the vessel is a United States citizen; and

(D) Not more than 50 per centum of the main propulsion machinery, other machinery, articles and components of the vessel, which are not an integral part of the hull or superstructure, are of foreign manufacture. This percentage shall be computed on the basis of cost, determined separately for each item of machinery or equipment.

(b) The term "bulk cargo" means cargo transported in bulk without mark or count by a vessel engaged in the foreign commerce of the United States.

(c) The term "Secretary" means the Secretary of Transportation.

#### CARRIAGE OF BULK CARGOES ON UNITED STATES-FLAG SHIPS

SEC. 4. (a) In the calendar year following the year of enactment of this Act, each importer or exporter of bulk cargoes shall transport at least 5 per centum of these bulk cargoes in United States-flag ships. In each calendar year thereafter the percentage of bulk cargoes required to be transported in United States-flag ships shall increase by 1 per centum until the percentage of the bulk cargoes required to be transported in United States-flag ships during each calendar year is at least 20 per centum.

(b) The requirements imposed in subsection (a) of this section are obligations of the importer and exporter of bulk cargoes, and may not be avoided by the terms of sale of those bulk cargoes.

(c) Each importer and exporter subject to the requirements of this Act shall, upon acceptable documentation, be granted credit on a ton-for-ton basis, for the employment of United States-flag ships in the transportation of bulk cargoes between foreign ports, against the volume of bulk cargoes which otherwise would be required to be transported in United States-flag ships pursuant to this Act.

(d) Beginning in the first calendar year after enactment, the Secretary may relieve any importer, exporter, shipper, or receiver, from the requirements of this Act, upon application, to the extent he determines necessary, upon a finding that United States-flag ships are not available or are not available within guideline rates pursuant to section 5. In determining the extent of relief to be granted in terms of aggregate tonnage of bulk cargoes, numbers of vessels, and duration of relief, the Secretary shall take into account the timeliness of the application for waiver, the vessels on order, under construction, coming off-hire and such other factors as he deems appropriate. In no event shall relief be granted for a period beyond the calendar year in which application is made. No relief may be granted under this subsection if the Secretary determines that cargo is being diverted to avoid compliance with this Act.

(e) For the purposes of this Act, any percentage of bulk cargo shall be measured by the aggregate tonnage of all bulk cargoes shipped on account of an importer or exporter in the foreign commerce of the United States.

#### ESTABLISHMENT OF GUIDELINE RATES

SEC. 5. (a) The Secretary shall establish and publish guideline rates for the carriage of bulk cargoes subject to this Act. In establishing the guideline rates, the Secretary must assure that the rate takes into account the following objectives:

(1) the development and maintenance of a modern, efficient United States-flag bulk cargo fleet;

(2) the availability of a United States-flag bulk cargo fleet to meet United States strategic requirements in time of international crisis;

(3) the maintenance of international markets for United States bulk exports and the development of new market opportunities; and

(4) the continued access by American industry to essential bulk imports.

(b)(1) In order to establish the guideline rates, the Secretary shall estimate the current cost, including reasonable profit, of operating various classes of United States-flag ships in the foreign bulk trades of the United States and the current cost, including reasonable profit, of constructing various classes of United States-flag ships in United States shipyards.

(2) These current cost estimates shall be promulgated within six months after enactment of this Act. Thereafter these estimated costs shall be revised annually to reflect the annual gross national product deflator, as determined by the Bureau of Labor Statistics, and any other factors the Secretary deems appropriate.

(3) In the second year following the commencement of the required percentage of United States-flag ship transportation, as set forth in section 4, United States-flag ship operating costs and United States shipyard construction costs, such construction costs based upon a ten-ship series in a United States shipyard, must each reflect cost reductions of at least 15 per centum below the Secretary's initial estimated costs, as set forth in subsection (b)(1).

(4) In the second year and in each succeeding year following commencement of required United States-flag ship transportation, as set forth in section 4, the Secretary shall employ these cost estimates, as adjusted pursuant to subsection (b)(2), as the primary basis for establishing guideline rates as required by this section.

(c)(1) Guideline rates shall be separately established for voyage, time, and bareboat charter, by class of vessel, by commodity and trade, as necessary, and shall be based upon recognized international charter market indices, adjusted to reflect the Secretary's estimated costs, pursuant to subsection (b). In the absence of such recognized indices the Secretary shall utilize the best available information. The Secretary shall promulgate by regulation the indices or other information he will rely upon and the methodology and criteria he shall employ in adjusting such indices to achieve the purposes of this Act.

(2) These guideline rates shall be reviewed and adjusted periodically, as circumstances require, but not less frequently than annually.

(3) These rates, as established by the Secretary, may not reflect costs greater than the adjusted costs as set forth in subsection (b).

(4) Guidelines rates shall be the maximum rates which may be charged for the charter of United States-flag ships for the transportation of those bulk cargoes that are required to be transported under this Act.

(d) In the first calendar year following enactment of this Act, the Secretary, in consultation with the advisory committee established in subsection (e), shall establish and publish interim guideline rates. These interim rates shall be based upon a fair and reasonable rate for the transportation of bulk cargoes on existing United States-flag bulk cargo carrying vessels; the specific charters, voyages, bulk commodities, and trades concerned; the objectives of this Act; and any other factors the Secretary deems appropriate. These interim rates shall be the maximum rates which may be charged for the charter of United States-flag ships until guideline rates have been established and published pursuant to subsections (b) and (c).

(e) The Secretary shall appoint and consult on a regular basis with an advisory committee, composed of importers, exporters, charter brokers, United States-flag ship operators, shipbuilders, labor unions, and management and labor organizations, to advise and assist him in the establishment and review of United States-flag ship operating cost and United States shipyard construction costs, guideline rates, and regulations. The advisory committee may be divided into panels as the Secretary deems appropriate. Members shall be appointed for terms of three years and may be reappointed to succeeding terms. Members shall serve without compensation.

#### REPORTING OF AMOUNT SHIPPED ON UNITED STATES-FLAG SHIPS

SEC. 6. (a) Each person, corporation, partnership, or other business entity that imports or exports bulk cargoes in the foreign commerce of the United States, and whose volume of business exceeds \$1 million annually (in imports or exports or any combination thereof) shall submit to the Secretary, on or before January 31 of each year, a sworn statement certifying that the percentages of its imports and exports carried on United States-flag ships in the preceding year were at least the percentage required to be transported in United States-flag ships under section 4 of this Act. The Secretary shall prescribe by regulation the documentation required to be submitted with the sworn statement in order to verify its accuracy.

(b) Each importer, exporter, shipper, or receiver, who fails to use United States-flag ships to transport the required percentage of imports or exports required by this Act, and who has not applied for and received timely relief pursuant to section 4(d), shall use exclusively United States-flag ships for the transportation of bulk cargoes until the percentage deficiency has been recouped. Any such failure shall not constitute grounds for Secretarial relief from the requirements of this Act.

#### CIVIL PENALTY PROVISION

SEC. 7. (a) It is unlawful for any importer or exporter to violate any provision of this Act or any regulation issued pursuant to this Act. Any person who is found by the Secretary, after notice and an opportunity for a hearing in accordance with section 554 of title 5, United States Code (5 U.S.C. 554), to have violated this Act, or any regulation issued under it, shall be liable to the United States for a civil penalty. The amount of the civil penalty shall not exceed \$100,000 for each violation. Each day of a continuing violation shall constitute a separate offense. The amount of the civil penalty shall be assessed by the Secretary by written notice. In determining the amount of such penalty, the Secretary shall take into account the nature, circumstances, extent, and gravity of the act committed and, with respect to the violator, the degree of culpability, any history of prior offenses, and such other matters as justice may require.

(b) Any person against whom a civil penalty is assessed under subsection (a) may obtain review thereof in the appropriate district court of the United States by filing notice of appeal in the court within thirty days from the date of the order and by simultaneously sending a copy of the notice by certified mail to the Secretary. The Secretary shall promptly file in the court a certified copy of the record upon which the violation was founded or the penalty imposed, as provided in section 2112 of title 28, United States Code (28 U.S.C. 2112). The findings and order of the Secretary shall be set aside by the court if they are not found